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Attorneys for Defendant APPLE INC.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

EPIC GAMES, INC.,

Plaintiff, Counter-  
defendant

v.

APPLE INC.,

Defendant,  
Counterclaimant.

Case No. 4:20-cv-05640-YGR-TSH

**DECLARATION OF KYLE ANDEER IN  
SUPPORT OF APPLE'S JOINT LETTER  
SUBMISSION REGARDING CLAWBACK  
OF DOCUMENT**

1 I, Kyle Andeer, declare and state as follows:

2 1. I am a lawyer, and am currently employed as Vice President, Corporate Law & Chief  
3 Compliance Officer of Apple Inc. I have been employed by Apple since 2010, and throughout that  
4 time have had responsibility for competition law at Apple, including assessing competition law issues  
5 and advising Apple executives regarding regulatory and litigation issues involving competition law,  
6 both in the United States and around the world. I am Apple's in house lawyer primarily responsible  
7 for competition law issues and advice.

8 2. On August 10, 2020, I presented to Phil Schiller and a small number of other senior  
9 Apple executives regarding various competition law challenges to the App Store in the United States  
10 and in other jurisdictions around the world. Specifically, at the request of senior Apple executives, I  
11 conducted a legal assessment of those challenges and offered legal advice and strategy about potential  
12 responses to those challenges.

13 3. I shared an outline of my presentation with Mr. Schiller in advance of the meeting on  
14 August 10, 2020 to ensure that it addressed his questions. As part of my communications with Mr.  
15 Schiller leading up to my presentation on August 10, 2020, I gave him preliminary legal advice and I  
16 got additional questions and feedback from him on competition law issues relevant to the presentation,  
17 and further requests for advice about how Apple should respond to them. I prepared a Keynote  
18 presentation on these topics in order to guide our conversation on these topics, and I edited and revised  
19 that presentation based, in part, on Mr. Schiller's further questions and feedback.

20 4. I drafted and presented the Keynote slide deck that is the subject of Epic's motion. That  
21 slide deck was reviewed and commented on by Kate Adams, Apple's General Counsel, in advance of  
22 the meeting with Mr. Schiller and other Apple executives. I incorporated Ms. Adams' feedback and  
23 legal advice into the slide deck, and Ms. Adams also attended the meeting and provided legal advice at  
24 the meeting.

25 5. The slide deck describes regulatory, litigation, and related competition law challenges  
26 in various jurisdictions around the world. It includes my detailed legal assessments of those various  
27 competition law challenges to different aspects of the App Store's business. The slide deck also  
28 contains descriptions of the positions taken on these legal issues by different regulators and by

1 competitors who have leveled complaints about the App Store, again along with my assessment of  
2 those positions.

3 6. Finally, the slide deck discusses different potential ways for Apple to respond to the  
4 different risks described. These discussions include descriptions of the strength and weakness of  
5 different approaches and potential strategies for the company's engagement with regulators and other  
6 relevant stakeholders. I intended, and still intend, that the presentation, slide deck, and the descriptions,  
7 analyses, and advice they contain are privileged and confidential and should not be disclosed outside  
8 the small group of Apple executives for whom they were created. I understand that the slide deck was  
9 inadvertently disclosed among the millions of documents reviewed on an expedited schedule in this  
10 case.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is true  
12 and correct and that this Declaration was executed on May 19, 2021 at Oakland, California.

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Kyle Andeer